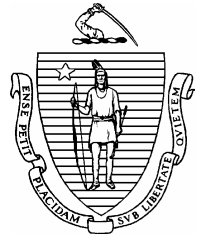


# Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss

COMMISSION ADJUDICATORY  
DOCKET NO. 06-0009

IN THE MATTER  
OF  
MICHAEL ROSTKOWSKI

## DISPOSITION AGREEMENT

The State Ethics Commission and Michael Rostkowski enter into this Disposition Agreement pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, § 4(j).

On April 7, 2005, the Commission initiated, pursuant to G.L. c. 268B, § 4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Rostkowski. The Commission concluded its inquiry and, on April 13, 2006, found reasonable cause to believe that Rostkowski violated G.L. c. 268A.

The Commission and Rostkowski now agree to the following findings of fact and conclusions of law.

### Findings of Fact

1. From November 1996 through February 2001, Rostkowski was a Department of Environmental Protection ("DEP") Bureau of Waste Prevention Environmental Analyst.
2. The Maple Meadow Landfill ("the MM Landfill") is located in Wilmington, Massachusetts.
3. During Rostkowski's tenure at DEP, the owner and operator of the MM Landfill and the DEP entered into an Administrative Consent Order ("ACO") that requires the owner/operator to comply with applicable landfill assessment and closures procedures.<sup>1</sup> In addition, the MM Landfill operator/owner is required as part of the ACO to perform landfill closure and design and construction.
4. Mass Environmental Associates ("MEA") is a landfill and contaminated soil management company. MEA contracted with the owners of the MM Landfill to conduct environmental investigations, and design and close the MM Landfill in accordance with the requirements of the ACO.
5. As a DEP employee, Rostkowski participated in assessing the MM Landfill site and recommending enforcement/investigative actions in connection with the ACO. Approximately twenty percent of Rostkowski's time as a DEP employee was spent doing MM Landfill work.
6. Rostkowski became a former state employee when he left his DEP position in February 2001.
7. On March 1, 2001, Rostkowski began working for MEA.
8. Rostkowski visited the MM Landfill site daily for approximately six months of his MEA employment. Rostkowski monitored which MEA employees and equipment were at the MM Landfill. He also sporadically went to the MM Landfill and gave advice to the MEA laborers about storm water control measures. These actions involved the applicable landfill closure and design and construction requirements of the ACO.

9. Rostkowski did not appear on MEA's behalf before the DEP.

10. Rostkowski left MEA in April 2004.

### ***Conclusions of Law***

11. Section 5 (a) of G.L. c. 268A prohibits a former state employee from knowingly acting as agent for or receiving compensation<sup>2</sup> directly or indirectly from anyone other than the commonwealth or a state agency, in connection with any particular matter<sup>3</sup> in which the commonwealth or a state agency is a party or has a direct and substantial interest, and in which matter he participated<sup>4</sup> as a state employee.

12. When Rostkowski left DEP, he became a former state employee.

13. The ACO was a particular matter in which the DEP was a party.

14. Rostkowski, while a DEP employee, participated in assessing the MM Landfill site and recommending enforcement/investigative actions in connection with the ACO.

15. Rostkowski received compensation from MEA beginning in March 2001, when he as an MEA employee, went to the MM Landfill on a daily basis for approximately six months. Rostkowski monitored which MEA employees and equipment were at the MM Landfill. He also sporadically went to the MM Landfill and gave advice to the MEA laborers about storm water control measures. The work Rostkowski performed for MEA concerning the MM Landfill was in connection with the ACO.

16. By receiving compensation from MEA for the work he did, as an MEA employee, concerning the MM Landfill ACO, Rostkowski received compensation from someone other than the state in connection with a particular matter in which the state was a party. By doing so, Rostkowski violated § 5(a).

### ***Resolution***

In view of the foregoing violations of G.L. c. 268A by Rostkowski, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Rostkowski:

- (1) that Rostkowski pay to the Commission the sum of \$10,000 as a civil penalty for repeatedly violating G.L. c. 268A as noted above; and
- (2) that Rostkowski waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

**DATE:** June 14, 2006

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<sup>1</sup> 310 CMR §§ 19.140 -19.151.

<sup>2</sup> "Compensation" means any money, thing of value or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another. G.L. c. 268A, §1(a).

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<sup>3</sup> “Particular matter” means any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, §1(k).

<sup>4</sup> “Participate” means participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, §1(j). One does not need to be the final decision-maker to be deemed to have participated in a matter.